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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,969	07/07/2003	Takao Miyazaki	Q76233	4714
23373	7590	10/15/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,969

Applicant(s)

MIYAZAKI, TAKAO

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 26,33 and 35 are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no proper antecedence for the “shopping” bag of claim 26. Claim 33 recites the “head selector” twice and it would seem that line 3 of the claim and “for” in line 4 should be deleted. In claim 35 the word “medium” should be inserted after “printing” in line 1 of the claim.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 26-32 and 35 are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Yuyama (6,397,558). The Yuyama patent discloses a bagging machine that comprise a goods storing section 2, a goods carrying section to carry out goods from the storing section 6, a printer 4 operable to print specific goods related data on the bags before filling the bags and a wrapping section 5,6 for enclosing the goods in the bags. The goods carrying in section and carrying out section are read on the openings or sections of the storage section 2 that are inherently present that permit the feeding of the products into and out of the storage section.

Regarding claims 27-29, Yuyama further discloses a computer system (21-29) that stores the goods data and printer contents data, controls the printing operation, an external inputs in the forms of keyboard and host computer.

Regarding claim 30, the device of Yuyama is considered to be a “goods-trading” apparatus since the medicine is traded or exchanged from a stored to a packed location.

Regarding claims 32 and 35, the type of bag being used is given little weight in an apparatus claim since it defines no structural limitations.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33 and 34 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Yuyama (6,397,558).

The use of multiple printing heads and a selector for those heads (claim 33) is well known in the printing art and similarly bag size determining means (claim 34) is well known in the packaging art and their use in the Yuyama operation would have been obvious to one of ordinary skill in the art for their inherent advantages.

RESPONSE TO APPLICANT’S ARGUMENTS

Applicant’s argument is that Yuyama teaches the printing of a desired “printing content onto a predetermined printing medium” while the claimed invention is a “printer that prints contents associated with a specific article onto a printing medium based on the particular article”. Contrary to this argument the Examiner maintains that the printing is done in the Yuyama

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process based on the article that is to be subsequently placed in the bags. The specific article and its dosing order are printed and then the articles are placed in the bag. Note the flow chart of Figures 5-7 that indicate the printing prior to the packing step (see steps S4, S12 and S13). Based on the prescription data, specific medicine and the desired dosage order input into the computer in steps S1-S3 Column 4, lines 19 et seq.), the printing data is prepared in step S4 (column 4, lines 51-56), the printing is performed in step S12 and then the packing is performed in step S13. Further evidence of this operation is in column 3, lines 5-7; column 5, line 25-28; and column 6, lines 22-25.

It should further be noted that Applicant's argument that the invention is a "printer that prints contents associated with a specific article onto a printing medium based on the particular article" is also not convincing since a printer that is "operable" to print this information depends merely on the software being used and not the printer. As presently claimed, for the claims to read on the reference it is sufficient to show a reference using a printer that is capable to perform the recited function. The patent to Yuyama shows such a printer.

Applicant's last argument that Yuyama is not capable of adjusting the printing mechanism for different sizes or different mediums, this limitation is not recited in the claims. Again it should be noted that since Yuyama teaches the use of a computerized printing operation it is the software that would determine the use of adjustable printing sizes and as such the Yuyama printer would be adjustable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



John Sipos
Primary Examiner
Art Unit 3721